

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

VS.

Criminal No. 4:03-CR-40008
Civil No. 08-CV-04087

LAIF DOUGLAS POULTON

MOVANT

ORDER

Before the Court is the Report and Recommendation filed on February 26, 2009, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. No. 53). On March 6, 2009, the Movant filed objections to the Magistrate Judge's Report. (Doc. No. 54).

On March 12, 2003, the Movant Laif Poulton was indicted for wire fraud. He entered a plea of guilty to the charges on June 27, 2003. The Court sentenced Poulton to a term of twenty-four (24) months imprisonment to be followed by three (3) years supervised release. One of the conditions of Poulton's supervised release was that he not commit any federal, state or local crime. On September 8, 2005, Poulton was released from federal custody and began serving his supervised release.

On April 1, 2008, Poulton was convicted of Theft of Property and two counts of Forgery in the Circuit Court of Washington County, Arkansas. On April 4, 2008, as a result of his criminal conviction, the Court issued a warrant for Poulton's arrest for violation of his supervised release. A Revocation Hearing was set for April 10, 2008. Counsel was appointed to represent Poulton at this hearing. At the hearing, Poulton admitted that he had been convicted of a felony

offense in state court. As a result of this conviction, the Court revoked Poulton's supervised release and sentenced him to a term of imprisonment of twenty-one (21) months to be served consecutively to the sentence imposed in state court. Poulton was given credit for the 6 days he had spent in federal custody. Poulton did not object to the sentence imposed by the Court.

On September 19, 2008, Poulton filed this Motion for Credit for Time Spent in Custody. (Doc. No. 32). In his motion, Poulton requests that the Court credit his federal sentence with the time (355 days) he spent in state custody. The matter was referred to Magistrate Judge Barry A. Bryant for a report and recommendations.

In his report, Judge Bryant found that the decision to give credit for time previously served on a state sentence is made by the Federal Bureau of Prisons, not this Court.¹ Judge Bryant recommends that the instant motion be denied. Poulton has filed a letter objecting to the Magistrate's findings and recommendation.

After considering the Movant's objections and reviewing the record *de novo*, the Court adopts the Magistrate's Report and Recommendation (Doc. No. 53) as its own. Accordingly, Movant Laif Douglas Poulton's Motion for Credit for Time Spent in Custody (Doc. No. 32) should be and hereby is **denied**.

IT IS SO ORDERED, this 9th day of March, 2009.

/s/Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge

¹ Judge Bryant also informed Poulton that if he sought such credit from the BOP and exhausted his remedies there with no relief granted, he could seek judicial review pursuant to 28 U.S.C. § 2241 in the District where he is then confined or in any district where the BOP maintains a regional office.